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**Ewings Sarcoma & Medical Malpractice**

**By Michael Monheit, Esquire, Monheit Law, PC**

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Ewing's sarcoma, a childhood cancer, is fairly rare, but is often curable. Information on Ewings sarcoma is key! The most important factor is making an early diagnosis. The second critical piece of information on Ewings sarcoma is the choice and monitoring of proper pediatric cancer treatment.

Ewing's sarcoma mostly strikes between the ages of 10 and 20, but younger children and older adults can also get the disease. The cause of Ewing's sarcoma is unknown. Like other cancers it is not infectious and cannot be passed on to other people. However, like other sarcomas; it can be spread to other parts of the body. Symptoms of Ewing's sarcoma vary depending on the location and size of the cancer. The most common symptoms are pain and swelling or tenderness in the affected area. Pain may become very intense when the tumor is located near important nerves, like in the pelvis or spine. Swelling is often seen, especially when the long bones of the arms or legs are affected.

Sometimes the Ewing's sarcoma tumor can interfere with movement and can weaken bones, occasionally leading to a fracture. Other Ewing's sarcoma symptoms may include tiredness, fever, weight loss, and anemia.

Ewing's sarcoma may be diagnosed from x-rays, ultrasound, computed tomography (CT) scan, positron emission tomography (PET) scan, or magnetic resonance imaging (MRI). A specialist must biopsy a mass when Ewing's sarcoma is suspected. A bone marrow biopsy may also be needed to evaluate the extent of Ewing's sarcoma.

Information on curing Ewings sarcoma: Most children with Ewing's sarcoma can be cured. Even if the tumor returns, further treatment may be given successfully. Surgery and radiotherapy can stop bones from growing and may make muscles and tendons shorter. Thusly, further operations later in life are necessary. However, most children who are successfully treated for Ewing's sarcoma grow up with little disability if a timely diagnosis is made and proper Ewing's sarcoma treatment begins.

Information on Failure to diagnose Ewing's sarcoma properly may be due to: Today's average medical practitioner will rarely see a child with cancer. Lack of familiarity with the signs and symptoms of

childhood cancer may be one reason why the diagnosis is delayed or missed. Another reason may be the result of too many layers of healthcare bureaucracy or the exorbitant cost of healthcare.

Failure to diagnose Ewing's sarcoma and other childhood cancers may result in medical malpractice.

Information on Litigating Ewings Sarcoma cases: Do Ewing's sarcoma medical malpractice cases end up in trial?

Many Ewing's sarcoma and other pediatric cancer cases are resolved without going to trial; however, an insurance company cannot settle a case without consent of its insured. Also some medical malpractice cases never go to trial but instead are resolved through binding arbitration. Many hospitals, doctors, and HMOs ask patients to sign an agreement to go to binding arbitration in the event of a

claim or dispute. These agreements are often in fine print in the initial papers a patient fills out when first seeing a doctor or upon admission to a hospital or joining a HMO.

Michael Monheit, Esquire is the managing attorney for Monheit Law. The practice focuses on plaintiff personal injury cases. For more information, please use our

### **Medical Malpractice Lawyers – You Never Know When You May Need One**

**By Tyson J Stevenson**

Medical malpractice occurs when a health care provider who by an action or omission deviates from the accepted norms of practice in medicine leading to injury/ death to a patient.

Many deaths occur due to medical malpractice. A health care provider is not just the doctor or the surgeon but includes nurses, dentists, therapists, hospitals, clinics etc. Medical malpractice law is derived from the general negligence law. Various laws have evolved in the US, England, Australia and other countries, which are similar in concept for control of medical malpractice.

Claims are made for negligence, misdiagnosis, improper medication etc. Claims can even be made where informed consent of the patient is taken. Claims can also be made against corporations, hospitals, clinics for the mistake of their employees based on vicarious liability. The patient has the right to claim economic and non-economic damages.

However in medical malpractice cases, the burden of proof lies with the plaintiff (patient). Hence the patient should hire a good lawyer. Three things have to be proved by the plaintiff:

- The health care provider failed to provide adequate and reasonable care to the patient.
- This failure to provide adequate care to the patient has resulted in damage or loss to the patient.
- The health care provider is liable to pay the damages or loss.

## Ewings Sarcoma & Medical Malpractice

The damages are of two types, compensatory and punitive. Compensatory damages are of two types economic and non-economic damages. Economic damages are monetary losses like, medical care, medicines and loss of wages. These damages can be in the past or future. Non-economic damages are the ones like loss of organ or vision, pain, disfigurement, embarrassment emotional stress etc.

Punitive damages are very rarely awarded. Medical malpractice cases are complicated because when the patient is admitted he is already injured or ill and hence the damage caused by negligent medical care has to be assessed independently of the earlier illness or injury.

A further obstacle in medical malpractice case is that expert witness is to be provided by the plaintiff. Very few doctors are willing to testify against another doctor even when the case of negligent care is clear. On the other hand the defendant lawyers have a pool of doctors to defend the case of negligent medical care. Usually medical malpractice attorney firms provide expert testimony on the care provided by the health care provider. Some medical malpractice lawyer firms provide free case evaluation and take medical malpractice cases on contingent basis that is until the firm wins the case for the client, the client need not pay for the services of the lawyers. In medical malpractice cases it is vital to obtain the medical records as early as possible by the patient or his representative.

Most healthcare providers take medical malpractice insurance. There has been an ongoing debate by doctors and their medical malpractice insurance companies against excessive jury awards. Generally insurance companies rarely go to trial where large penalties are involved. However it must be remembered that the insurance companies and health care providers are willing to fight it out against

spurious medical malpractice claims. The procedure for filing a medical malpractice claim varies from state to state.

Tyson J Stevenson writes on a wide variety of "every day" subjects, always with valuable news & reviews. Expect to see his name often. A related resource is



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